

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 10.10.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM

and

The Hon'ble Mr. Justice S.TAMILVANAN

Habeas Corpus Petition No.752 of 2006

K.Mumtaj

... Petitioner

Vs.

1.The State of Tamil Nadu rep. by its
Secretary to Government,
Prohibition and Excise Department,
Fort St.George, Chennai-9.

2.The Commissioner of Police,
Greater Chennai,
Chennai 8.

... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent dated 29.07.2006 in Memo No.202/BDFGISSV/2006 against the petitioner's husband Khader @ Khader Mohaideen @ Khader Meeran, Male, aged 38, S/o Hameed, who is confined at Central Prison, Chennai and set aside the same and direct the respondents to produce him before this Court and set him at liberty.

For Petitioner : Mr.Abudu Kumar Rajarathinam
for Mr.S.Anand Raj

For Respondents : Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

O R D E R

(Order of the Court was made by P.SATHASIVAM,J.)

The petitioner, who is the wife of the detenu by name Khader @ Khader Mohaideen @ Khader Meeran, who is detained as a 'Bootlegger' as contemplated under the Tamil Nadu Prevention

of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 29.07.2006, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel appearing for the petitioner has brought to our notice that though the accused/detenu was arrested at 23.00 hrs. on 03.07.2006, the arrest memo contains the crime number. He also pointed out that the confession statement was recorded at 23.15 hrs to 24.00 hrs on 03.07.2006, which also refers the Cr.No.86 of 2006, though the information relating to the alleged offence was passed on to the police only on 04.07.2006 at 02.30 hrs., and thereafter, the case was registered and the crime number was assigned. There is no dispute regarding the above factual details. In the absence of such clarification, we accept the said contention.

4. In such circumstances, in the absence of proper explanation by the person concerned mentioning the crime number even in the arrest memo as well as in the confession statement and the fact that this relevant aspect was not considered by the detaining authority, the detention order is liable to be quashed.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in connection with some other case or cause.

Sd/-

सत्यमेव जयते
Asst. Registrar.

/true copy/

WEB COPY
Sub Asst. Registrar.

gms

To

1.The Secretary to Government, State of Tamil Nadu,
Prohibition and Excise Department,
Fort St.George, Chennai-9.

2.The Commissioner of Police,
Greater Chennai,
Chennai 8.

3. The Superintendent, Central Prison, Chennai.
(In duplicate for communication to detenu)

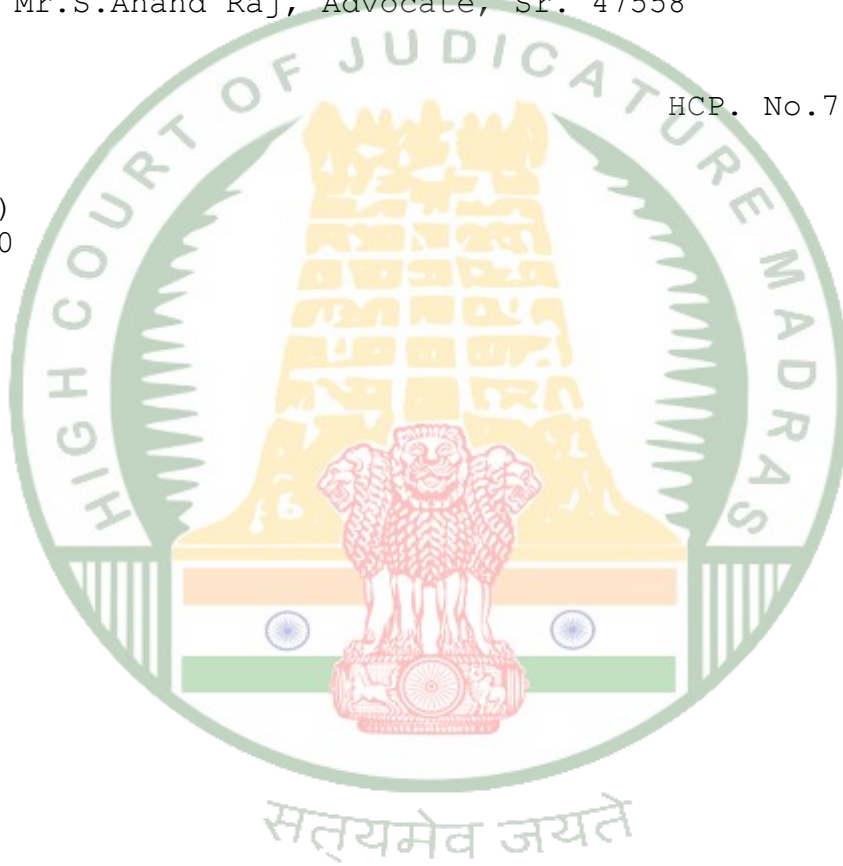
4. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

1 cc to Mr.S.Anand Raj, Advocate, Sr. 47558

HCP. No.752 of 2006

AKM (CO)
kk 18/10



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